



**OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN**

**GERALD C. MANN  
ATTORNEY GENERAL**

Honorable H. Bayne Satterfield, Commissioner  
Firemen's Pension Commission  
Austin, Texas

Dear Sir:

Opinion No. O-4943  
Re: Eligibility of particular  
firemen to retire and to  
participate in Firemen's  
Relief and Retirement Fund.

Your request for opinion addressed to the Attorney  
General of Texas reads as follows:

"Will you please give this Department an opinion  
on the following question:

"1. Mr. A. was born January 16, 1871 and consequently was sixty-nine years, eleven months, and fifteen days of age on January 1, 1942.

"2. He entered the service of a regularly organized Texas fire department on May 5, 1891 and has served continuously as an active member of that department as of January 1, 1942. He therefore had served continuously forty-nine years and eight months as of January 1, 1942.

"3. His salary for the five years immediately preceding January 1, 1942 was \$200.00 per month.

"4. He filed his application for retirement on December 10, 1941 with his local Board, requesting that he be retired on January 1, 1942 in accordance with the provisions of Article 6243e of the Revised Statutes of Texas. Neither his service period nor his age was questioned by the Board because they were a matter of record of the city.

"What date should Mr. A have been retired and what monthly benefit should he be granted under the

provisions of Article 6243e, Revised Civil Statutes of Texas? He and his department were participating members of the Disability and Retirement setup of this State operating under the above Article."

Section 6 of Article 6243e, V. A. C. S., provides:

"On and after the 1st day of April, A.D. 1939, any person who has been duly appointed and enrolled and who has attained the age of fifty-five (55) years and who has served actively for a period of twenty (20) years in some regularly organized fire department in any city or town in this State now within or that may come within the provisions of this Act, in any rank, whether as wholly paid, part paid or volunteer firemen shall be entitled to be retired from such service or department and shall be entitled to be paid from the Firemen's Relief and Retirement Fund of that city or town, a monthly pension equal to one-half of his average monthly salary not to exceed a maximum of One Hundred Dollars (\$100) per month. Such average monthly salary to be based on the monthly average of his salary for the five (5) year period preceding the date of such retirement; provided further, that if his average monthly salary is Fifty Dollars (\$50) or less per month or if a volunteer fireman with no salary, he shall be entitled to a monthly pension or retirement allowance of Twenty-five Dollars (\$25)."

From the facts stated in your letter it is the opinion of this department, and you are so advised, that the fireman in question should have been retired on January 1, 1942. He may now be retired at any time and is entitled to be paid from the Firemen's Relief and Retirement Fund a monthly pension equal to one-half of his average monthly salary next preceding the date of his retirement but not to exceed a maximum of \$100 per month. His average monthly salary for the past five years having been \$200, he is entitled to be retired and to receive a pension of \$100 per month.

Yours very truly

APPROVED DEC 4, 1942  
/s/ Gerald C. Mann  
ATTORNEY GENERAL OF TEXAS

ATTORNEY GENERAL OF TEXAS  
/s/ E. G. Pharr  
By

E. G. Pharr  
Assistant

EGP:db

APPROVED  
OPINION COMMITTEE  
BY BWB  
CHAIRMAN